



**STATE BOARD OF EQUALIZATION**

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February 10, 1993

BURTON W. OLIVER  
*Executive Director*

Ms. J--- K---  
Administrative Supervisor  
Auditing Department  
N--- P--- L--- Company  
P. O. Box XXXX  
---, Oregon XXXXX

Re: Taxability of Sales to E--- D--- T---  
Account No. SS -- XX-XXXXXX

Dear Ms. K---:

This office has received your letter dated November 25, 1992 in which you state that E--- D--- T--- does not have a California seller's permit and your belief that, under all the circumstances presented, the two shipments discussed in the Board's November 18, 1992 letter are taxable.

In your letter of August 18, 1992, you stated that E--- D--- T--- has "a branch office in San Diego under the name of S--- F--- who does have a California seller's permit -- resale #SR FH 25-826132." Since S--- F--- is a separate corporation, a California seller's permit was issued in its corporate name. Attached to your August 18, 1992 letter was a copy of a resale certificate issued by S--- F--- to N--- P--- L--- certifying that the lumber purchased will be resold. The good faith acceptance of this certificate by N--- P--- L--- makes the sale of the lumber nontaxable. Presumably, the lumber will be resold by S--- F--- to E--- D--- T--- who will use the lumber to make wooden frames in Mexico.

Although there is some inconsistency in the documents presented with your letters, it appears that S--- F--- was the purchaser of the lumber and the ultimate consignee of the shipments was E--- D--- T---. If S--- F--- has given N--- P--- L--- timely resale certificates for all the lumber purchased and shipped to E--- D--- T---, it is our opinion that the sale of the lumber by N--- P--- L--- is not taxable.

Also, if S--- F--- is considered a separate business entity, the possession of the lumber by S--- F--- prior to its exportation cannot be deemed to be a "possession" by E--- D--- T--- within the meaning of Regulation 1620.

In the future, it is recommended that if S--- F--- tenders resale certificates for purchases from N--- P--- L---, all invoices prepared by N--- P--- L--- should designate S--- F--- as the purchaser, not E--- D--- T---.

Very truly yours,

Thomas J. Cooke  
Tax Counsel

TJC:wk